Nova Scotia

ANNUAL REPORT

for the period
April 1, 1998 to March 31, 1999

Public Prosecution Service

101-01085/

Honourable Murray Scott
Speaker of the Nova Scotia House of Assembly
Office of the Speaker
Province House
Halifax, Nova Scotia B3J 2Y3

Dear Mr. Speaker:

I have the honour of presenting to you and through you to the Members of the Legislative Assembly, the Annual Report of the Public Prosecution Service of Nova Scotia, as required by Section 13 of the *Public Prosecutions Act*.

This report covers the period of April 1, 1998 to March 31, 1999. During the period of this report the Director of Public Prosecutions position was vacant, and the Deputy Director of Public Prosecutions has served as interim head of the Public Prosecution Service.

Martin E. Herschorn, Q.C.
Deputy Director of Public Prosecutions

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THE MANDATE OF THE PUBLIC PROSECUTION SERVICE

In Nova Scotia all prosecutions for criminal and provincial offences are brought in the name of the Crown because the Crown is responsible for bringing before the courts those accused of prohibited conduct that adversely affects the safety and well being of the community.

The mandate of this prosecution service is to ensure fair and equal treatment in the prosecution of offences.

All prosecutions within the jurisdiction of the Attorney General of Nova Scotia are the responsibility of the Director of Public Prosecutions who conducts them either personally or through the Crown attorneys of the Public Prosecution Service, independently of the Attorney General. The only limitation on the operational independence of the Director of Public Prosecutions arises when the Attorney General issues written instructions to the Director of Public Prosecutions. These instructions are binding and must be made public. This procedure preserves the ultimate prosecutorial authority of the Attorney General. It is a means of ensuring accountability to the electorate for the manner in which public prosecutions are conducted.

In support of its mandate, the Public Prosecution Service has adopted the following mission and goals.

MISSION

The mission of the Public Prosecution Service is to seek justice by prosecuting offences competently, with fairness and equal treatment for all persons.

GOALS

- providing a Public Prosecution Service that reflects professional competency, dedication to public service, and high ethical standards.
- providing a Public Prosecution Service that identifies and allocates the resources required to carry out its mission.
- providing a Public Prosecution Service that reflects the application of best business practices consistent with providing high-quality service.
- providing within the Public Prosecution Service an environment that allows for the independent exercise of prosecutorial discretion.
- providing a Public Prosecution Service that is reflective of the community it serves.

PERFORMANCE

In attaining the goals of the Public Prosecution Service, the following performance measurements were recorded in 1998–99:

a. Providing a Public Prosecution Service that reflects professional competency, dedication to all public service, and high ethical standards:

- prosecuted 30,920 *Criminal Code* cases
- prosecuted 2,520 provincial statute cases
- prosecuted 75 appeals before the Nova Scotia Court of Appeal and the Supreme Court of Canada
- funded six Crown attorneys to attend the Federation of Law Societies Program on Criminal Law held in Victoria, British Columbia, in July 1998
- funded a three-day annual conference for Crown attorneys and a two-day conference for support staff of the Public Prosecution Service in September 1998
- participated in the following operational or policy initiatives:
  - the Director of Public Prosecutions initiative on disclosure
  - the Department of Justice Access to Justice Initiative
  - the implementation of adult diversion across province
  - the contracting of prosecution services to municipalities
  - STAR/STOR records management system
  - forms committee
- continued participation at meetings of Federal/Provincial/Territorial Ministers and Deputy Ministers, Coordinating Committee of Senior Officials and Heads of Prosecution meetings, provincial Deputy Ministers meetings, and meetings of the Justice Coordinating Committee

- continued to fund the defence of Crown attorneys sued for malicious prosecution and participated in national initiatives aimed at establishing guidelines for public policy on this issue
- continued funding the Public Prosecution Service Professional Development Newsletter

b. Providing a Public Prosecution Service that identifies and allocates the resources required to carry out its mission.

- continued development of modifications to JOIS as a replacement for offender information currently recorded manually
- received Department of Transportation and Public Works approval for renovated office space for Sydney, Dartmouth and Truro in accordance with PPS generic office standards
- began hiring an additional permanent Crown attorney in Kentville
- hired an additional Crown attorney in the Port Hawkesbury office
- developed a new policy regarding the use of per diem Crown attorneys to be implemented upon budgetary approval
- hired a permanent File Registry Clerk
- continued phasing-in the redistribution of per diem Crown attorney funding from per diem rates to permanent Crown attorney positions where possible and feasible
- continued to review support staff requirements
- continued monthly reviews of the budget forecasting process
- held quarterly reviews of the Public Prosecution Service detailed Business Plan
- hired a Director of Communications

c. Providing a Public Prosecution Service that reflects the application of best business practices consistent with providing a high-quality service:

- continued creating an annual business plan
- provided executive training for members of the Management Committee
- participated in the work of the Canadian Centre for Justice Statistics to establish a process for gathering and reporting information on criminal investigations and prosecutions in Canada

d. Providing within the Public Prosecution Service an environment that allows for the independent exercise of prosecutorial discretion:

- continued providing information to stakeholders on the role of the Service and, in particular, the role of Crown attorneys in the administration of justice
- continued to educate the members of the Public Prosecution Service on the independence of the Service and its relationship with the Department of Justice

e. Providing a Public Prosecution Service that is reflective of the community it serves:

- continued support for the Indigenous Black and Mi'kmaq Program at Dalhousie Law School by funding an articled clerk position in cooperation with the Department of Justice
- continued developing a policy on Employment Equity and Diversity

THE ROLE OF THE ATTORNEY GENERAL

In Nova Scotia, the Minister of Justice is also the Attorney General and superintends all matters connected with the administration of justice in the province except those within the jurisdiction of the Canadian government. The Attorney General's functions and powers include legislative responsibility for affairs and matters relating to courts and prosecutions. He or she is the Law Officer of the Crown and the Chief Public Prosecutor.

By virtue of this role, the Attorney General has the right to be informed about the conduct of police activities and individual criminal prosecutions. This right is normally only exercised in exceptional cases. No such right exists for any other member of the executive council or of government. This not only protects the integrity of the criminal justice system, but serves to shield government members and their staff from the accusation of attempting to interfere in the administration of justice.

The *Public Prosecutions Act* ensures the accountability to the Legislative Assembly of the Attorney General in his or her capacity as Chief Public Prosecutor. Section 6 of the act provides that the Attorney General is responsible for the Public Prosecution Service and is accountable to the Assembly for all prosecutions. This ensures that ultimate control over prosecutions remains in the hands of an elected official.

By virtue of subsection 6 (a) of the *Public Prosecutions Act*, the Attorney General is entitled to issue general instructions or guidelines in respect of all prosecutions, or a class of prosecutions, to the Public Prosecution Service after consultations with the Director of Public Prosecutions. During the period April 1, 1997 to March 31, 1998 the Attorney General of the day has not had occasion to exercise his authority under this provision.

By virtue of subsection 6 (b) of the *Public Prosecutions Act*, the Attorney General is entitled to issue instructions or guidelines in a particular prosecution after consultation with the Director of Public Prosecutions. During the period April 1, 1998 to March 31, 1999 the Attorney General had occasion to exercise his authority with this provision in relation to one matter. That instruction, dated July 10, 1998, directed the Service to advise lawyers Craig Garson and Duncan Beveridge, who had been commissioned by the Public Prosecution Service to review the handling of the Westray prosecution, to discontinue their work, as the Attorney General on that date announced an external review of the performance of the Public Prosecution Service under the direction of the Honourable Fred

Kaufman, C.M., Q.C. This instruction was published in the *Royal Gazette*, Part 1, Volume 207, No. 43, on October 28, 1998.

By virtue of subsection 6 (e) of the *Public Prosecutions Act*, the Attorney General is entitled to exercise all statutory functions with respect to prosecutions after consultation with the Director of Public Prosecutions. During the period April 1, 1997 to March 31, 1998 the Attorney General has not had occasion to exercise his authority under this provision.

THE ROLE OF THE DIRECTOR OF PUBLIC PROSECUTIONS

The Director of Public Prosecutions is the head of the Public Prosecution Service, which conducts all prosecutions independently of the Attorney General on behalf of the Crown in right of Nova Scotia. This includes the prosecution of offences under the *Criminal Code*, certain other federal statutes (e.g., *Migratory Birds Convention Act, Canada Shipping Act, Small Vessel Regulations*, and *Explosives Act*), and most offences under provincial statutes. Prosecutions for violations of other federal statutes are conducted by agents of the Attorney General of Canada.

The Director of Public Prosecutions, as the lawful Deputy of the Attorney General with respect to prosecutions under the *Criminal Code* and under the *Summary Proceedings Act*, can exercise any of the powers conferred upon the Attorney General. These include the preferring of direct indictments or consenting to the laying of a new information following a discharge of an accused at a preliminary inquiry. When these powers are exercised in indictable matters, a report can be provided to the Attorney General at his or her request or upon the initiative of the Director of Public Prosecutions. This would allow the Attorney General to be in a knowledgeable position should any of these decisions be questioned in the House of Assembly or should the Attorney General wish to exercise any of the powers conferred by section 6 of the *Public Prosecutions Act*.

The Director of Public Prosecutions also has the status of deputy head and the provisions of the *Civil Service Act* and regulations relating to a deputy or a deputy head apply to the Director of Public Prosecutions.

The Director of Public Prosecutions must be a barrister of at least 10 years' standing. If from another province, he or she must become a practising member of the Nova Scotia Barristers' Society within one year of appointment. The Director of Public Prosecutions holds office during good behaviour and may be removed from office for cause by a resolution of the Assembly.

THE ROLE OF THE CROWN ATTORNEY

Crown attorneys in Nova Scotia are responsible to the Director of Public Prosecutions through a Chief Crown Attorney for the conduct of prosecutions. The conduct of a prosecution involves not only the conduct of the trial itself but a myriad of other activities essential to a fair prosecution. Crown attorneys therefore conduct arraignments, show cause (bail) hearings, preliminary inquiries, sentencings, appeals to the Supreme Court of Nova Scotia, appeals to the Court of Appeal, appeals to the Supreme Court of Canada, disposition and review hearings before the Criminal Code Review Board, and fatality inquiries. In addition, they provide pre-charge advice to the police and provincial government enforcement officials, participate in the formulation of policy advice on the criminal law, participate in management activities aimed at improving the delivery of prosecutorial services to our community, prepare professional papers, and conduct and participate in public speaking engagements. In short, they discharge a number of responsibilities of fundamental importance to our community.

In discharging these responsibilities a Crown attorney must be guided by the law, codes of professional ethics, and the public interest. The public interest involves many considerations. It encompasses the need to protect citizens on convicting criminals and deterring crime. The community is entitled to have those charged with offences prosecuted firmly and efficiently, but it also expects them to be prosecuted fairly. Properly balanced, the public interest in the conviction of the guilty does not conflict with the principles of fundamental justice.

The notion that all accused should receive fair and equal prosecutorial treatment by the Crown is an aspect of the rule of law. Canada's judicial system operates on an adversarial trial model. It is left up to the parties to frame the issues before the court and lead the evidence relied on in support of their case. The role of defence counsel in this model is to do everything that can be ethically done to secure an acquittal for an accused who has chosen to plead not guilty. The role of Crown attorney, on the other hand, excludes any notion of winning or losing. The Supreme Court of Canada has expressed the proper frame of mind of those who represent the Crown in the following words:

> "... the situation which the Crown occupies is not that of an advocate in a civil case. His functions are quasi-judicial. He should not seek so much to obtain a verdict of guilty as assist the judge and jury to render the most complete justice. Moderation and impartiality should always characterize his conduct before the court. He will in fact have honestly fulfilled his duty and will be beyond reproach, if, putting aside any appeal to emotions, in a dignified manner consistent with his role, he exposes the evidence to the jury without going beyond what it actually reveals" *

On March 31, 1999, there were 75 Crown attorneys employed by the Public Prosecution Service. They were assisted in their duties by 44 support staff.

* *Boucher v. Her Majesty the Queen [1955] S.C.R. 16*

ORGANIZATION DESCRIPTION

The head office of the Service comprises its senior management, including the Director of Public Prosecutions, the Deputy Director, the Chief Crown Attorney (Appeals), the Chief Crown Attorney (Special Prosecutions), the Director of Communications, the Manager of Administrative Services, and their support staff.

The Deputy Director assists the Director and is primarily responsible for the legal operations of the Service. Five Chief Crown Attorneys report through the Deputy Director to the Director and are resident in the Western, Cape Breton, Halifax, and Central regions. In the Halifax Region, two Chief Crown Attorneys supervise the activities of Crown attorneys together with their support staff. In the Western, Central, and Cape Breton regions, a Chief Crown Attorney supervises the activities of Crown attorneys and their support staff. The regional offices respond to requests from the police for pre-charge legal advise, and conduct preliminary inquiries and trials before the various trial courts of the province.

Special Prosecutions primarily focuses on commercial crime, fraud, sexual assaults and charges under the province's *Revenue Act*. Members of this unit also prosecute cases that present conflicts for regional offices, or may be involved where a law enforcement officer is the subject of a police investigation or a prosecution.

The Service's coordinator for the *Freedom of Information and Protection of Privacy Act* is also located in the head office. In the period covered by this report, the Service received 49 applications for records under this act.

The Appeals Branch is responsible for conducting all criminal and quasi-criminal appeals to which the Attorney General is a party in the Nova Scotia Court of Appeal and the Supreme Court of Canada. The Appeals Branch also conducts all proceedings required before an appeal is heard by the court. These proceedings include Chambers motions in the Court of Appeal and applications for leave to appeal in the Supreme Court of Canada.

The organizational structure of the Public Prosecution Service is illustrated by the chart on page 18.

ORGANIZATIONAL STRUCTURE 1998–99

Director of Public Prosecutions
Director of Communications
Manager, Administrative Services
Deputy Director of Public Prosecutions
Chief Crown Attorney Special Prosecutions Section
Crown Attorneys Support Staff
Chief Crown Attorney Halifax Region 2 Positions
Crown Attorneys Support Staff
Chief Crown Attorney Western Region
Crown Attorneys Support Staff
Chief Crown Attorney Central Region
Crown Attorneys Support Staff
Chief Crown Attorney Cape Breton Region
Crown Attorneys Support Staff
Chief Crown Attorney Appeals Branch
Crown Attorneys Support Staff

APPENDIXES

APPENDIX A
CRIMINAL CODE CASES PROSECUTED BY OFFICE, CATEGORY OF OFFENCE
April 1, 1998–March 31, 1999 (1)

	Bedford	Halifax	Dartmouth	**Halifax Region**	Amherst	New Glasgow	Truro	Antigonish	**Central Region**
Homicide (2)	2	2	0	**4**	0	1	0	0	**1**
Attempted Murder	0	0	1	**1**	0	0	0	0	**0**
Robbery	28	98	54	**180**	18	4	10	0	**32**
Sexual Assault	30	54	52	**136**	18	16	20	7	**61**
Sexual Abuse	14	15	49	**78**	9	18	2	3	**32**
Kidnapping	8	24	15	**47**	3	1	11	0	**15**
Abduction	1	0	0	**1**	0	0	2	0	**2**
Break & Enter	268	263	173	**704**	123	108	120	25	**376**
Weapons	49	125	88	**262**	39	42	68	14	**163**
Fraud	197	297	162	**656**	106	210	291	31	**638**
Major Assault	60	249	191	**500**	82	65	105	15	**267**
Simple Assault	173	491	451	**1,115**	153	187	194	73	**607**
Theft	495	873	529	**1,897**	117	177	255	35	**584**
Stolen Property	345	355	531	**1,231**	57	54	126	20	**257**
Arson	5	0	6	**11**	8	3	5	1	**17**
Property Damage	84	169	171	**424**	90	74	85	31	**280**
Morality (Sexual)	21	287	98	**406**	6	5	6	0	**17**
Morality (Gaming)	1	1	2	**4**	0	0	0	0	**0**
Public Order	13	16	17	**46**	17	27	24	11	**79**
C.C. Traffic	55	45	96	**196**	26	21	58	27	**132**
Administration of Justice	368	686	978	**2,032**	351	500	631	186	**1,668**
Impaired Driving	404	598	473	**1,475**	235	286	297	250	**1,068**
Threats	0	0	0	**0**	0	0	0	0	**0**
Criminal Harassment	0	0	0	**0**	0	0	0	0	**0**
Other Criminal Code	97	309	248	**654**	84	100	70	45	**299**
Total Cases by Office & Region	**2,717**	**4,958**	**4,385**	**12,060**	**1,542**	**1,899**	**2,380**	**774**	**6,595**

(1) Cases prosecuted by Special Prosecutions Unit are included in regional figures.

(2) Homicide includes all cases causing culpable death (e.g., murder, manslaughter, criminal negligence causing death, dangerous driving causing death, etc.)

APPENDIX A
CRIMINAL CODE CASES PROSECUTED BY OFFICE, CATEGORY OF OFFENCE
April 1, 1998–March 31, 1999 (1)

	Kentville	Bridgewater	Yarmouth	Digby	**Western Region**	Sydney	Port Hawkesbury	**Cape Breton Region**	**Total for all Regions**
Homicide (2)	2	0	0	0	**2**	4	0	**4**	**11**
Attempted Murder	0	1	0	0	**1**	4	0	**4**	**6**
Robbery	6	9	3	4	**22**	13	0	**13**	**247**
Sexual Assault	36	22	30	21	**109**	43	15	**58**	**361**
Sexual Abuse	3	3	5	8	**19**	14	2	**16**	**145**
Kidnapping	11	4	7	2	**24**	10	3	**13**	**99**
Abduction	2	0	0	0	**2**	3	0	**3**	**8**
Break & Enter	144	153	119	52	**468**	205	20	**225**	**1,773**
Weapons	64	27	53	37	**181**	77	17	**94**	**700**
Fraud	328	90	105	108	**631**	147	5	**152**	**2,077**
Major Assault	89	37	22	38	**186**	164	27	**191**	**1,144**
Simple Assault	309	154	128	135	**726**	454	79	**533**	**2,981**
Theft	290	127	112	87	**616**	401	25	**426**	**3,523**
Stolen Property	135	69	29	30	**263**	141	11	**152**	**1,903**
Arson	13	3	11	3	**30**	17	1	**18**	**76**
Property Damage	189	82	73	63	**407**	194	36	**230**	**1,341**
Morality (Sexual)	10	2	10	6	**28**	9	5	**14**	**465**
Morality (Gaming)	0	0	0	0	**0**	0	0	**0**	**4**
Public Order	53	23	22	40	**138**	39	8	**47**	**310**
C.C. Traffic	46	41	21	29	**137**	57	18	**75**	**540**
Administration of Justice	732	353	413	395	**1,893**	1,179	129	**1,308**	**6,901**
Impaired Driving	479	301	186	219	**1,185**	572	214	**786**	**4,514**
Threats	0	0	0	0	**0**	0	0	**0**	**0**
Criminal Harassment	0	0	0	0	**0**	0	0	**0**	**0**
Other Criminal Code	157	84	77	112	**430**	357	46	**403**	**1,786**
Total Cases by Office & Region	**3,098**	**1,585**	**1,428**	**1,389**	**7,500**	**4,104**	**661**	**4,675**	**30,920**

(1) Cases prosecuted by Special Prosecutions Unit are included in regional figures.

(2) Homicide includes all cases causing culpable death (e.g., murder, manslaughter, criminal negligence causing death, dangerous driving causing death, etc.)

APPENDIX B
PROVINCIAL CASES PROSECUTED BY OFFICE, CATEGORY OF OFFENCE
April 1, 1998–March 31, 1999 (1)

Region (Office)	Motor Vehicle Act	Liquor Control Act	Other Prov. Statutes	Total Cases	Prosecuted by PPS (2)	Prosecuted by Municipality
Halifax						
Bedford	307	15	25	347	0	347
Halifax	747	56	63	866	0	866
Dartmouth	326	19	89	434	0	434
	1,380	**90**	**177**	**1,647**	**0**	**1,647**
Central						
Amherst	134	38	31	203	142	61
New Glasgow	157	62	30	249	178	71
Truro	224	28	45	297	273	24
Antigonish	54	41	25	120	120	0
	569	**169**	**131**	**869**	**713**	**156**
Western						
Kentville	298	95	45	438	353	83
Bridgewater	205	61	29	295	191	104
Yarmouth	131	54	24	209	196	13
Digby	191	68	42	301	268	33
	825	**278**	**140**	**1,243**	**1,008**	**233**
Cape Breton						
Sydney	380	232	53	665	665	0
Port Hawkesbury	102	42	19	163	134	29
	482	**274**	**72**	**828**	**799**	**29**
Total	**3,256**	**811**	**520**	**4,587**	**2,520**	**2,067**

(1) The determination of the number of cases prosecuted is based on criteria that provides for a more accurate statistic than that provided in previous annual reports.

(2) Not all provincial statute cases are prosecuted by the PPS. Some municipalities prosecute provincial statute cases on their own.

APPENDIX C
APPEALS BRANCH STATISTICS

The following are statistics related to the operations of the Appeals Branch in 1998–99.

The branch participated in 55 appeals which were heard in full by the Court of Appeal.

Of this number:
- 16 were initiated by the Crown
- 39 were initiated by the offender
- 3 involved young offenders

Of 16 appeals initiated by the Crown:
- 9 dealt with appeals of sentence
- 5 dealt with appeals of acquittal
- 2 were motions to quash appeals heard by the full Court

Of 39 appeals initiated by offenders:
- 21 dealt with conviction
- 6 dealt with sentence
- 10 dealt with conviction and sentence
- 2 dealt with interlocutory orders

The Appeals Branch also participated in 19 appeals that were abandoned, quashed, or dismissed without a full hearing in the Court of Appeal.

Of these:
- 2 were initiated by the Crown
- 17 were initiated by the offender

The Appeals Branch participated in 106 chambers motions, which are applications heard by a single judge of the Court of Appeal. Chambers motions include hearing dates, adjournments, bail pending appeal, extensions of time to appeal, directions in a particular appeal, and striking appeals from the Court's docket.

In the Supreme Court of Canada, the Appeals Branch participated in one appeal as an intervenor. The SCC provided decisions in eight applications for leave to appeal.

APPENDIX D
PUBLIC PROSECUTIONS ACT

AN ACT TO PROVIDE FOR AN INDEPENDENT DIRECTOR OF PUBLIC PROSECUTIONS

Be it enacted by the Governor and Assembly as follows:

1 This Act may be cited as the *Public Prosecutions Act*.

2 The purpose of this Act is to ensure fair and equal treatment in the prosecution of offences by

(a) establishing the position of Director of Public Prosecutions;

(b) providing for a public prosecution service; and

(c) providing for the independence of the Director of Public Prosecutions and the public prosecution service.

3 In this Act, "prosecution" includes the decision whether to prosecute or not, the prosecution proceeding itself and matters arising there from, and appeals.

4 There shall be a Director of Public Prosecutions who

(a) is the head of the public prosecution service and is responsible for all prosecutions within the jurisdiction of the Attorney General conducted on behalf of the Crown;

(b) may conduct all prosecutions independently of the Attorney General except that the Director of Public Prosecutions shall comply with all instructions or guidelines issued by the Attorney General in writing and published pursuant to this Act;

(c) is, for the purpose of the *Criminal Code* (Canada) and the *Summary Proceedings Act*, the Attorney General's lawful deputy in respect of prosecutions;

(d) shall advise police officers in respect of prosecutions generally or in respect of a particular investigation that may lead to a prosecution when the police request such assistance;

(e) may issue general instructions or guidelines to a chief crown attorney, a regional crown attorney or a crown attorney in respect of all prosecutions or a class of prosecutions, and shall cause such instructions or guidelines to be published.

(f) may issue instructions or guidelines to a chief crown attorney, a regional crown attorney or a crown attorney in a particular prosecution.

5 (1) The Director of Public Prosecutions

(a) shall be a barrister of at least ten years standing at the Bar of Nova Scotia or of another province of Canada, and if of another province, shall, within one year of appointment, become a practising member of the Bar of Nova Scotia;

(b) shall be appointed by the Governor in Council after consultation with the Chief Justice of Nova Scotia, the Chief Justice of the Trial Division of the Supreme Court and the Executive of the Nova Scotia Barristers' Society;

(c) holds office during good behaviour;

(d) has the status of deputy head and the provisions of the Civil Service Act and regulations relating to a deputy or a deputy head apply to the Director of Public Prosecutions; and

(e) shall be paid the same salary as the Chief Judge of the provincial court.

(2) The Director of Public Prosecutions may be removed from office for cause by a resolution of the Assembly.

(3) Where, while the Assembly is not sitting, the Director of Public Prosecutions fails to be of good behaviour, or is unable to perform the duties of office, the Governor in Council may appoint a person to be Acting Director of Public Prosecutions who shall take over the duties of the Director of Public Prosecutions until fifteen sitting days after the Assembly is next sitting or until the Governor in Council sooner rescinds the appointment of the Acting Director of Public Prosecutions.

6 The Attorney General is the minister responsible for the prosecution service and is accountable to the Assembly for all prosecutions to which this Act applies and

(a) after consultation with the Director of Public Prosecutions, may issue general instructions or guidelines in respect of all prosecutions, or a class of prosecutions, to the prosecution service and shall cause all such instructions or guidelines to be in writing and to be published at the direction of the Director of Public Prosecutions as soon as practicable in the *Royal Gazette*;

(b) after consultation with the Director of Public Prosecutions, may issue instructions or guidelines in a particular prosecution, and shall cause such instructions or guidelines to be in writing and to be published at the direction of the Director of Public Prosecutions as soon as practicable in the *Royal Gazette* except where, in the opinion of the Director of Public Prosecutions, publication would not be in the best interests of the administration of justice, in which case the Director of Public Prosecutions, instead, shall publish as much information concerning the instructions or guidelines as the Director of Public Prosecutions considers appropriate in the next annual report of the Director of Public Prosecutions to the Assembly;

(c) may consult with the Director of Public Prosecutions and may provide advice to the Director of Public Prosecutions and, subject to clauses (a) and (b), the Director of Public Prosecutions is not bound by such advice;

(d) may consult with members of the Executive Council regarding general prosecution policy but not regarding a particular prosecution;

(e) may exercise statutory functions with respect to prosecutions, including consenting to a prosecution, preferring an indictment or authorizing a stay of proceedings, after consultation with the Director of Public Prosecutions.

7 The Director of Public Prosecutions may, from time to time, designate a barrister in the public service to be Deputy Director of Public Prosecutions who is responsible to the Director of Public Prosecutions and who may exercise all of the powers and authority of the Director of Public Prosecutions and, for that purpose, is a lawful deputy of the Attorney General.

8 There shall be crown attorneys to conduct prosecutions and the crown attorneys are responsible to the Director of Public Prosecutions and, where applicable, to a chief crown attorney or a regional crown attorney.

9 There may be a regional crown attorney to supervise crown attorneys within a geographic area determined by the Director of Public Prosecutions, and a regional crown attorney is responsible to the Director of Public Prosecutions.

10 There may be a chief crown attorney to supervise crown attorneys and, where applicable, regional crown attorneys, and a chief crown attorney is responsible to the Director of Public Prosecutions.

11 A chief crown attorney, a regional crown attorney and a crown attorney have all the powers, authorities and duties provided by the criminal law of Canada for prosecutors, for prosecuting officers or for counsel acting on behalf of the Attorney General.

12 All chief crown attorneys, all regional crown attorneys and all full-time crown attorneys shall be barristers appointed pursuant to the *Civil Service Act* upon the recommendation of the Director of Public Prosecutions after a competition.

13 The Director of Public Prosecutions shall report annually to the Assembly in respect of prosecutions.

14 (1) The Director of Public Prosecutions may appoint a barrister to take charge of and conduct a particular prosecution or to take charge of and conduct criminal business to the extent specified in the terms of the appointment.

(2) A barrister appointed pursuant to this Section shall be known and designated as a crown attorney and, when acting within the terms of the appointment, has all the powers and authority of a crown attorney.

(3) The Director of Public Prosecutions may, from time to time, vary the terms of appointment of a crown attorney pursuant to this Section or may, at any time, revoke the appointment.

15 Notwithstanding Section 12, all prosecuting officers and assistant prosecuting officers employed by the Province immediately before the coming into force of this Act are crown attorneys for the purpose of this Act.

16 Clause (c) of subsection (1) of Section 30 of Chapter 210 of the Revised Statutes, 1989, the *House of Assembly Act*, is amended by striking out the punctuation and words "prosecuting officer" in the second and third lines thereof.

17 Chapter 362 of the Revised Statutes, 1989, the *Prosecuting Officers Act*, is repealed.

18 This Act comes into force on and not before such day as the Governor in Council orders and declares by proclamation.

APPENDIX E
BUDGET RESOURCES

	Actual 1998–99 $(000s)	Estimate 1998–99 $(000s)	Estimate 1999–2000 $(000s)
Head Office			
Salaries and Benefits	908.9	890.3	554.5
Operating Costs	630.1	546.3	710.1
Recoveries	-292.6	-250.0	-324.6
Special Prosecutions Section			
Salaries and Benefits	0.0	0.0	894.7
Operating Costs	0.0	0.0	734.0
Westray			
Salaries and Benefits	298.0	281.0	26.3
Operating Costs	237.8	271.7	60.1
Cape Breton Region			
Salaries and Benefits	893.5	900.4	980.4
Operating Costs	237.8	272.5	239.9
Central Region			
Salaries and Benefits	929.5	939.6	1,065.5
Operating Costs	370.8	340.3	272.4
Halifax Region			
Salaries and Benefits	3,097.2	3,113.5	2,878.4
Operating Costs	677.8	668.3	519.2
Western Region			
Salaries and Benefits	1,186.6	1,192.1	1,260.9
Operating Costs	254.5	258.3	231.7
Appeals Branch			
Salaries and Benefits	478.5	564.0	591.5
Operating Costs	29.7	33.4	42.5
Professional Services	394.8	387.3	309.5
Total			
Salaries and Benefits	7,792.2	7,880.9	8,252.2
Operating Costs	2,833.3	2,778.1	3,119.4
Recoveries	-292.6	-250.0	-324.6